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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement submitted by the Centro de Estudios Legales y Sociales (CELS) (Argentina) and the International Federation of Human Rights (FIDH), non-governmental organizations in special consultative status with the Economic and Social Council

The Secretary-General has received the following written statement, which is distributed in accordance with Economic and Social Council resolution 1988/4.

[21 October 1999]

Introduction

1. This statement is a summary of the main areas in which the Government of Argentina has failed to fulfil its duty to enforce economic, social and cultural rights, on the occasion of the evaluation of its second periodic report by the Committee on Economic, Social and Cultural Rights.

I. GENERAL

Lack of concrete, up-to-date information

2. The organizations submitting this statement acknowledge that the Government of Argentina submitted the report in time, but cannot fail to note the absence of information in the Government's document.

3. It is clear from the report that the Government opted for an extremely legalistic approach, based on lists of laws, decrees and decisions, thus preventing the Committee from gaining a clear idea of the extent to which the rights laid down in the legislation are enforced and of the actual economic and social situation in the country.

4. Considering, moreover, the fact that the report was submitted in June 1997, the data it contains are clearly out of date; recent official statistics in the public domain were omitted, and in some cases the Committee was even given information dating from the 1980s. In cases where the report indicates that it was not possible to collect better data, it even fails to state what specific steps were taken.

5. The list of Government plans and programmes is also incomplete in that it fails to include a brief analysis of the situation being addressed, the number of people affected, the assessed budget, the number of beneficiaries and a brief evaluation of their effects.

6. This is a key issue for the Government of Argentina, as the Committee, on considering its previous report, noted "the absence of specific information necessary in order to ascertain whether economic, social and cultural rights are being respected in Argentina, both collectively and individually". 1/

Unequal distribution of wealth

7. Although Argentina is usually held up as an example of the success of the economic reform models, the situation of large sectors of the population shows how these processes can cause significant setbacks in the effective enjoyment of economic, social and cultural rights, and reinforce a deeply divided and unjust society.

8. It is a well-known fact that in recent years Latin America has become a laboratory for studying the "shrinking of the welfare State", or "structural adjustment". This refers to a set of policies intended to dismantle the standard institutions of a welfare State system. Argentina is a model case where these processes are concerned.

9. These policies have had a definite impact on the distribution of income. According to official data, in May 1999 a person belonging to the wealthiest decile of the population earned 25 times more than a person from the poorest decile. Two years ago the figure was 23, nine years ago 15 and at the beginning of the 1980s, 8. 2/ There are two societies living in Argentina today: one with income similar to that of the first world and another with wages like those of Asia and Africa.

10. In Argentina one fifth of the population appropriates 53 per cent of the income.

11. Added to this are an unemployment rate of 14.5 per cent and an underemployment rate of 4.8 per cent. 3/ In addition, 37.6 per cent of the employed population performs clandestine labour 4/ and is therefore without social security, severence pay, accident insurance, access to health coverage or unemployment insurance.

12. But apart from the difference in distribution of wealth by social class and labour sector, the impact of the adjustment varies according to region of the country.

13. While Buenos Aires has a per capita income of $25,654 per year, the figure for the province of Santiago del Estero is only $2,308 per year, representing an 11 to 1 difference between areas of the same country.

14. While in Buenos Aires the infant mortality figures are barely below those of the moderately developed countries (13.1 per thousand), the figures for Chaco are similar to the national average of 20 years ago and approximate the levels of the poorest countries of Africa (32.8 per thousand).

15. Similar differences are found in access to education. While the total drop-out rate for primary school is 2.1 per cent, the figures for the provinces of Formosa, Corrientes and Misiones are three times as much, or 6 per cent. 5/

16. This differential also applies to certain sectors of the population.

17. There has been a marked feminization of poverty in Argentina, which is directly linked to the gender inequalities in the distribution of economic power. The crisis in basic health conditions has had a particularly adverse impact on reproductive health; 80 per cent of cases of maternal mortality in Argentina are due to avoidable causes. 6/ There has also been an alarming increase in reported cases of AIDS among women, 7/ making women a vulnerable group.

18. In recent years a discriminatory attitude has arisen towards immigrants from neighbouring countries, who are blamed for unemployment and crime. Because proceedings are costly, immigrants face bureaucratic and economic obstacles in regularizing their situation. The administrative authorities enjoy excessively broad discretionary powers. Expulsions are not conducted in accordance with due process, and immigrants are frequently victims of

arbitrary detentions and police brutality. Immigrants from neighbouring countries also face labour exploitation, compounded by the obstacles placed in their way when they seek to regularize their situation.

19. The indigenous population of Argentina is estimated at approximately 900,000 persons belonging to 18 indigenous peoples, i.e. 1.5 per cent of the total population of the country and 17 to 25 per cent 8/ in some provinces. These persons have traditionally lived in conditions of extreme poverty. Their ancestral lands have been laid waste by irrational use of the environment, which is jeopardizing their sources of livelihood. In addition, their areas have the highest indices of acute infectious diseases such as tuberculosis, Chagas disease, parasites and cholera.

20. Other sectors of the society bear a disproportionate share of the consequences of this process: disabled persons have growing difficulties in joining the competitive labour market. Another problem is the fact that the privatized companies, in particular those responsible for basic transport services, ignore their requests for minimum accessibility to transport, while at the same time the State is relinquishing its essential monitoring function.

Setback in enforcement of rights

21. The "relaxation" of the rules governing the labour market is a key element in this new scenario. The following have occurred since 1991:

(i) New types of labour contracts have been established, "promoted" through the reduction or elimination of social security costs;

(ii) The old "labour accident" scheme was eliminated, preventing workers from obtaining full compensation for injury, while responsibility for the control of safety and health at work was delegated to private companies;

(iii) Mechanisms were adopted to "privatize" justice in the workplace by adding obligatory extrajudicial conciliation procedures;

(iv) The traditional privilege of collection of workers' claims was amended in the legislation governing tenders and bankruptcy; collective agreements were suspended for undertakings in liquidation and the joint liability for labour debts of the buyer of an enterprise in liquidation was eliminated;

(v) Severance pay was reduced;

(vi) The system of collective labour agreements was amended, eliminating the wage adjustment clauses and linking future pay rises to productivity increases.

22. Thus labour rights have become more precarious, basically through two mechanisms: (a) the requirements of an obviously regressive body of legislation, which derogated from or placed conditions on some labour rights and restricted the scope of others; (b) legal authorization to negotiate and

conclude collective labour agreements "downward" in areas where this formerly could not be done. Both of these mechanisms were instituted against a backdrop of high unemployment and weakening of the trade unions.

23. In the area of social security, the legislation has been restricting rights since 1993, limiting the total retirement premium in terms of economic circumstances. As a result of this process the readjustment of the retirement benefit has been linked to the existence of available resources in the system, the Social Security Solidarity Act has granted the Government the power to argue lack of resources to avoid paying claims for readjustment of the retirement benefit and, finally, the Government is able to stay the enforcement of judgements against it until it has the economic resources to pay for them.

24. Regarding the right to health, it should be mentioned that the national Government decentralized responsibilities and transferred them to the provincial Governments. This step has had drastic consequences for health care, as responsibility for health promotion and health care have been transferred to the provinces while the required resources have not been transferred from the central administration budget. On the basis of the regional differences referred to earlier, it can be seen that the decentralization process did nothing but accentuate the existing inequalities in access to health care. Loss of employment, undeclared employment and an increase in the number of the working poor have also helped to turn the weakened public health system into the main system responsible for the people's medical care. According to official data, 58.2 per cent of the population has only the public hospitals for their health coverage. 9/

25. These legislative reforms are of a regressive stamp and have caused a drastic setback in the degree of enforcement of economic, social and cultural rights.

III. CONCLUSIONS

26. The economic reform process in Argentina in the 1990s resulted in the dismantling of the standard institutions of the welfare State. The process was characterized by a severe setback in the degree of enforcement of economic, social and cultural rights and by the emergence of a society of inequality, in which the few earn wages while huge sectors of the population are abandoned by the Government and subjected to increasing social exclusion.

This paper is an adjusted summary of a report submitted to the secretariat, hence we urge the members of the Committee, in conducting its analysis, to refer to the report and its executive summary (in English and Spanish), which explain our concerns in greater detail.

Notes

1/ E/1995/22-E/C.12/1994/20, para. 224.

2/ Ongoing Household Survey. INDEC, 2nd quarter 1999.

3/ Ibid.

4/ Unrecorded employment. Percentage of wage-earners for whom the individual share of social security is not paid, for each urban centre. Aggregate figure for the provinces. October 1998. Ministry of Labour and Social Security.

5/ Federal Department of Education.

6/ Ministry of Health and Social Welfare, 1992.

7/ In 1990 there were 417 cases of AIDS among men and 62 among women; in 1997 the figure was 1,545 for men and 424 for women.

8/ According to data prepared by non-Government sources, due to the absence of official information.

9/ Data supplied by the Information, Monitoring and Evaluation System for Social Programmes.